

Message Text

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ACTION NEA-09

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FM USINT BAGHDAD

TO SECSTATE WASHDC 1951

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E.O. 11652: N/A

TAGS: APER, AFSP, IZ

SUBJECT: SOCIAL SECURITY COVERAGE FOR USINT LOCAL EMPLOYEES

1. CHRONIC PROBLEM OF GOI SOCIAL SECURITY COVERAGE FOR USINT LOCAL STAFF HAS AGAIN COME UP, THIS TIME IN FORM OF MFA NOTE TO USINT WARNING THAT IF CONTRIBUTIONS FOR ALL USINT EMPLOYEES (INCLUDING THOSE ALREADY COVERED UNDER CSR) ARE NOT COMMENCED IMMEDIATELY, FINES WILL BE ASSESSED.

2. ALTHOUGH USINT HAS ADVISED DEPT ON SCOPE AND NATURE OF PROBLEM, FOLLOWING IS BRIEF CHRONOLOGY OF EVENTS FROM PRE-67 DAYS TO PRESENT.

3. AMEMBASSY BAGHDAD IN A-873 DATED MARCH 27, 1965 ADVISED DEPT OF PROMULGATION OF NEW SOCIAL SECURITY LAW OF IRAQ EFFECTIVE OCTOBER 10, 1965. TEXT OF LAW WAS TRANSMITTED UNDER AIRGRAM. EMBASSY COMMENTED AT THAT TIME THAT LAW INVOLVED GOI MISCONSTRUAL OF VIENNA CONVENTION ON DIPLOMATIC INTERCOURSE AND IMMUNITIES AS IT RELATED TO SOCIAL SECURITY, SINCE U.S. DELEGATION'S REPORT TO CONFERENCE SPECIFIED THAT CONVENTION DID NOT DEAL WITH QUESTION OF WHETHER SENDING STATE WAS OBLIGED CONFORM HOST GOVERNMENT'S SOCIAL SECURITY LAWS AS THEY APPLIED TO MISSION LOCAL EMPLOYEES. REFAIR ALSO COMMENTED THAT AT TIME PROMULGATION OF LAW IT WAS NOT CLEAR WHETHER EMPLOYEES WOULD HAVE OPTION OF CHOOSING HOST GOVERNMENT PLAN OR CSR.

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4. FOLLOWING OPENING OF USINT ON OCTOBER 1, 1972, DEPT.

ADVISED USINT (STATE 199689 OF NOV 2) THAT ON BASIS RECIPROCITY IRAQI LOCAL EMPLOYEES WERE OBLIGED TO REPORT EARNINGS AND MAKE SOCIAL SECURITY CONTRIBUTIONS TO GOI AS THOUGH THEY WERE SELF-EMPLOYED. REFTEL ALSO STATED THAT 3 FAM 397 AND 971.2 PROHIBIT POST FROM WITHHOLDING TAXES OR SOCIAL SECURITY CONTRIBUTIONS FROM LOCALS' SALARIES UNLESS SPECIFIC AGREEMENT EXISTS BETWEEN HOST GOVERNMENT AND USG. HOWEVER, IRAQI SOCIAL SECURITY LAW DOES NOT ALLOW FOR PAYMENT BY SELF-EMPLOYED PERSONS.

5. AS RESULT REPEATED COMPLAINTS FORM LOCAL CONTRACT EMPLOYEES (OF WHICH THERE ARE SEVEN AND WHO ARE NOT ELIGIBLE FOR CSR) THIS PROBLEM WAS DISCUSSED AT LENGTH WITH PMO JONES DURING HIS VISIT IN NOVEMBER 1974. IT WAS THEN SUGGESTED THAT, SINCE PARTICIPATION OF SEVEN EMPLOYEES IN GOI SYSTEM WOULD REQUIRE RETROACTIVE PAYMENTS TO EFFECTIVE DATE OF FIRST GOI LAW IN 1960, COSTING USG SOME 10,000 DOLLARS, USINT SHOULD APPROACH SOCIAL SECURITY ESTABLISHMENT HERE WITH PROPOSAL TO PAY CONTRIBUTIONS FOR SEVEN CONTRACT EMPLOYEES BACK TO OCTOBER 1, 1972, DATE OF OPENING OF USINT, AS WELL AS TO ARRANGE FOR SOME KIND OF CONTINUING PAYMENT ARRANGEMENT WHICH WOULD NOT BE CONTRARY TO US LAW OR PRACTICE. ADMINOFF USREY BROACHED THIS QUESTION WITH SOCIAL SECURITY DIRECTOR KHISROO ON JANUARY 18, 1975. KHISROO WAS NONCOMMITTAL AND REQUESTED THAT USINT PUT FORTH PROPOSAL IN LETTER TO HIM, WHICH WAS DONE ON JANUARY 24. TO DATE NO REPLY TO THIS PROPOSAL HAS BEEN RECEIVED, BUT NOTE FROM MFA WOULD APPEAR TO SUPERCEDE THIS.

6. USINT RECEIVED MFA NOTE ON APRIL 24, 1975. NOTE REITERATES THAT ALL RPT ALL LOCAL EMPLOYEES ARE SUBJECT TO LAW AND THAT CONTRIBUTIONS RETROACTIVE TO 1960 MUST BE PAID IMMEDIATELY. THIS TURN OF EVENTS UNDERSTANDABLY CREATES APPREHENSION AMONG LOCAL EMPLOYEES WHO ARE UNDE CSR SYSTEM, SOME FOR OVER 20 YEQRS. THESE EMPLOYEES ARE AFRAID OF LOSING ATTRACTIVE CSR BENEFITS. ADDITIONALLY, MFA DECREE PLACES RESPONSIBILITY ON USINT UNCLASSIFIED

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TO PAY FULL BACK PAYMENTS FOR CONTRACT STAFF.

9. COST OF COMPLIANCE WITH THIS ORDER WOULD INVOLVE 10,000 DOLLARS ALREADY MENTIONED PLUS AN UNDETERMINED AMOUNT FOR REMAINING TEN EMPLOYEES, PROBABLY IN EXCESS OF 25,000 DOLLARS, AS WELL AS CONTINUING PAYMENTS. CONTINUED NON-COMPLIANCE, ALTHOUGH PROBABLY NOT ADVERSELY AFFECTING CSR EMPLOYEES, WILL BE HARDSHIP ON

CONTRACT STAFF. THUS SOLUTION APPEARS TO INVOLVE
EITHER COMPLIANCE FOR THESE SEVEN EMPLOYEES AT
CONSIDERABLE COST, OR HIRING THEM ON USINT ROLLS AS
FULL-TIME CSR EMPLOYEES WITH BENEFITS THERETO. IT NOT
CLEAR WHETHER GOI WOULD PERMIT PARTICIPATION OF ONLY
PART OF USINT STAFF (CONTRACT) IN THEIR PLAN.

10. REQUEST DEPARTMENT CONSIDER SITUATION AND TRANSMIT
INSTRUCTIONS TO USINT.

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